



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination: 24-MAR-2021

ORM Number: SPL-2008-00816-MB (West Area)

Associated JDs: SPL-2008-00816-MB (East Area)

Review Area Location<sup>1</sup>:

State/Territory: AZ City: Unincorporated County/Parish/Borough: Pima County

Center Coordinates of Review Area: Latitude 31.8771 Longitude -110.5575

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A	N/A	N/A	N/A

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A

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<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
B-NWPR	0.0121 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
B1-NWPR	0.0055 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
C-NWPR	0.0061 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
C1-NWPR	0.0044 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
C2-NWPR	0.005 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D(I)-NWPR	0.0132 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D(II)-NWPR	0.045 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1-NWPR	0.0179 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D10-NWPR	1.548 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D10a-NWPR	0.1995 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1a-NWPR	0.0032 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1a1-NWPR	0.0173 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1b-NWPR	0.0078 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1c-NWPR	0.0084 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d-NWPR	0.0034 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.

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D1d1-NWPR	0.0172 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d2(I)-NWPR	0.0748 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d2(II)-NWPR	0.0304 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d2-a-NWPR	0.0107 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d2-b-NWPR	0.0097 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d2-c-NWPR	0.011 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d3-NWPR	0.0083 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d4-NWPR	0.0053 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d5-NWPR	0.0032 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d6-a-NWPR	0.0057 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d6-NWPR	0.007 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D1d7-NWPR	0.0045 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D2-NWPR	0.0193 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D2a-NWPR	0.0161 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D2b-NWPR	0.0079 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D2c-NWPR	0.0455 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D2c1-NWPR	0.0339 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.

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D2c2-NWPR	0.0021 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3(I)-NWPR	0.0059 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3(II)-NWPR	0.0241 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3a-NWPR	0.0058 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3b-NWPR	0.0051 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3c-NWPR	0.0049 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3d-NWPR	0.017 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3d1-NWPR	0.0146 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3e-NWPR	0.0199 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3f-NWPR	0.1173 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3f1-NWPR	0.0687 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3f2-NWPR	0.0097 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D3f3-NWPR	0.0774 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D4-NWPR	0.003 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D4a-NWPR	0.0051 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D5-NWPR	0.0056 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D6-NWPR	0.0234 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.

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D6a-NWPR	0.0119 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D6b-NWPR	0.0207 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
D7-NWPR	0.0152 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
E(I)-NWPR	0.0244 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
E(II)-NWPR	0.0035 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
E1-NWPR	0.0141 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
E1a-NWPR	0.0037 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F(I)-NWPR	0.0105 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F(II)-NWPR	0.0061 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F1-NWPR	0.0048 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F1a-NWPR	0.0131 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F1a1-NWPR	0.0058 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F1b-NWPR	0.0112 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F1c-NWPR	0.0105 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F1d-NWPR	0.0094 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F2-NWPR	0.008 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F3-NWPR	0.003 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.

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F3a-NWPR	0.0061 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
F4-NWPR	0.0025 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G(I)-NWPR	0.2452 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G(IV)-NWPR	0.0156 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G(V)-NWPR	0.0674 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G(VI)-NWPR	0.0835 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G(VII)-NWPR	0.0787 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G(VIII)-NWPR	0.0395 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G1-NWPR	0.0709 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G1a-NWPR	0.0251 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2(I)-NWPR	0.4414 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2(II)-NWPR	0.0056 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2a-NWPR	0.0104 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2b-NWPR	0.0122 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2c-NWPR	0.0289 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2d-NWPR	0.0082 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2e-NWPR	0.016 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.

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G2f(I)-NWPR	0.1743 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f(II)-NWPR	0.0554 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f1-NWPR	0.0386 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f2-a-NWPR	0.0612 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f2-NWPR	0.0874 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f3-NWPR	0.0057 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f4(I)-NWPR	0.0105 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f4(II)-NWPR	0.0604 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G2f4(III)-NWPR	0.0374 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G3-NWPR	0.1019 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G3a-NWPR	0.0417 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G4(I)-NWPR	0.1458 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G4(II)-NWPR	0.0742 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G4a-NWPR	0.0278 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G4b-NWPR	0.0707 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G4c-NWPR	0.0429 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G4d-NWPR	0.0286 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.

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U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

G4e-NWPR	0.0259 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G5-NWPR	0.1087 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G6-NWPR	0.0129 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.
G7-NWPR	0.0218 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	See explanation below.

### III. SUPPORTING INFORMATION

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- ☒ Information submitted by, or on behalf of, the applicant/consultant: *Jurisdictional Waters Determination for the Rosemont Copper Project Utility Corridor and West Side Operations, Pima County, Arizona (September 20, 2019)*
- ☐ Data sheets prepared by the Corps: Title(s) and/or date(s).
- ☒ Photographs: USA National Agriculture Imagery Program Imagery 2017, Google Earth (historical aerial photos from December 1985 through May 2019), and ground photos (from several field visits by requester's consultant between 2010 and 2020)
- ☒ Corps site visit(s) conducted on: June 4, 2019. No further physical site visits were conducted by the Corps specifically for this request because of Covid-19 pandemic restrictions.
- ☒ Previous Jurisdictional Determinations: SPL-2016-00816 preliminary jurisdictional determination dated 6-5-2012.
- ☐ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- ☐ USDA NRCS Soil Survey: Title(s) and/or date(s).
- ☒ USFWS National Wetland Inventory maps: Online mapping tool accessed 11-13-2020 available at: <https://www.fws.gov/wetlands/data/mapper.html>.
- ☐ USGS topographic maps:

#### Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
NOAA Sources	National Centers for Environmental Information Climate Data Online accessed November 17,2000; precipitation data for 2009-2019 (Corona de Tucson station), available: <a href="https://www.ncdc.noaa.gov/cdo-web/">https://www.ncdc.noaa.gov/cdo-web/</a>
Arizona DWR	Online groundwater data ( <a href="https://gisweb3.azwater.gov/gwsi">https://gisweb3.azwater.gov/gwsi</a> ); accessed November 10, 2020
Arizona DEQ	flow regime KMZ map data, July 31, 2020
Pima County	Pima County Sonoran Desert Conservation Plan geographic information system data accessed in November 2020) available: <a href="https://webcms.pima.gov/cms/One.aspx?portalId=169&amp;pageId=159303">https://webcms.pima.gov/cms/One.aspx?portalId=169&amp;pageId=159303</a>
The Nature Conservancy	Freshwater Assessment for Arizona (KMZ dataset December 2010) available: <a href="http://azconservation.org/downloads/arizona_statewide_freshwater_assessment_gis_data_pacakge">http://azconservation.org/downloads/arizona_statewide_freshwater_assessment_gis_data_pacakge</a>

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U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

- B. Typical year assessment(s):** N/A; all aquatic resources have ephemeral flow regimes as discussed below; typical year assessments not required.
- C. Additional comments to support Approved Jurisdictional Determination (AJD):** To assess geographic jurisdiction in the review area, a number of sources of information were reviewed as noted above. The discussion below provides a description of the physical characteristics of the aquatic resources (ARs) in the review area.

The Navigable Waters Protection Rule (NWPR; 85 FR 22250, April 21, 2020) provides the following definitions for flow regimes:

- Perennial: "...surface water flowing continuously year-round." 33 CFR 328.3(c)(8).
- Intermittent: "...surface water flowing continuously during certain times of the year and more than in direct response to precipitation (e.g., seasonally when the groundwater table is elevated or when snowpack melts)." 33 CFR 328.3(c)(5).
- Ephemeral: "...surface water flowing or pooling only in direct response to precipitation, such as rain or snow fall." 33 CFR 328.3(c)(3).

Under the NWPR, ephemeral features are considered non-jurisdictional, 33 CFR 328.3(b)(3), while intermittent and perennial features may be jurisdictional based on other factors. Intermittent and perennial features may be considered jurisdictional if they contribute flow during a "typical year" to a traditionally navigable waterway (TNW) or territorial sea. Typical year means "when precipitation and other climatic variables are within the normal periodic range of the applicable aquatic resource based on a rolling thirty-year period." 33 CFR 328.3(c)(13). Wetlands jurisdiction depends on the location of the wetlands relative to other ARs (such as adjacency to other ARs).

The review area had been studied in 2012 for the potential presence of waters of the U.S. in the form of a preliminary jurisdictional determination (PJD). Under the 2012 PJD, ordinary high water mark (OHWM) indicators were mapped within the review area. No potential wetlands were assessed. All potential waters of the U.S. were classified as "riverine ephemeral."

Under the current AJD request, in 2019, the requester submitted revised OHWM mapping to update the previous mapping work. This remapping work was conducted to account for normal shifts in stream locations from 2012 to 2019.

The review area consists of a utility corridor and several small parcels that would be used in support of the Rosemont mining operation. The watercourses within the review area are in a broad bajada (a

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U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

broad slope of alluvial material at the foot of a mountain) area between the Santa Rita Mountains and the Santa Cruz River to the west containing deep well-drained alluvial soils. The drainages flow in a generally parallel fashion and tend to move laterally during flow events as they cross this area, combining with other drainages and reestablishing themselves during successive storm events. The drainages consist of desert washes with sandy, unvegetated beds and banks containing xeroriparian plant communities typical of ephemeral drainages in this region. Some of the plant species observed along the washes in the review area include desert broom, mesquite, burrobush, prickly pear cactus, and acacia; these plants are all classified as either upland obligates or facultative upland species in the National Wetlands Plant List. No wetlands, as defined in 33 CFR 328.3(c)(16), are in the review area. No relevant USGS or Pima County stream gages are in or near the review area.

The Corps' Los Angeles District noted the following:

1. Streams with wetter flow regimes (intermittent and perennial) have different field indicators compared to ephemeral streams. The physical characteristics of the ARs in the review area lack any physical indications, such as the presence of wetland obligate or facultative-wet plants, pooled water, algae growth, that would suggest the ARs are anything other than ephemeral. The location of these ARs within a broader landscape context are also consistent with ephemeral washes that drain desert alluvial fans and bajadas.
2. Data reviewed for this request does not support a determination that these ARs are non-ephemeral. The ARs do not appear as non-ephemeral on any dataset listed above that maps streams by flow regime. Groundwater data for this area does not indicate any areas of near surface groundwater elevations that could support a wetter flow regime.

Conclusion: The ARs located in the review area have ephemeral flow regimes. For this reason, the West area does not contain any ARs that are considered jurisdictional under the NWPR.

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